IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3122 OF 2005
ALONGWITH
CRIMINAL APPLICATION NO. 3123 OF 2005

Rajiv Bhatia ...Applicant

Versus

Sirius Holdings (P) Ltd. & Anr ...Respondents

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Mr. Piyush Shah, Advocate for Applicant.

Mr. Rajesh More, A.P.P. in Appln.3122/05.

Ms. S.V. Gajare, A.P.P. in Appln. 3123/05.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 24TH AUGUST, 2005

P. C.:-

1. Heard the learned advocate for the applicant i.e. original accused No.5 and the learned A.P.P. for the State.

2. The learned advocate for the applicant states that he is only pressing the prayer in respect of quashing of complaint and not pressing any other prayers made in the present applications. Hence, these applications are being considered in respect of the prayer for quashing of complaint Nos. 996/S/2002 and 1076/S/2002 which are pending in the Court of learned Metropolitan Magistrate, 1st Court, Bandra,

Mumbai. In the said case, process has been issued against the applicant under Section 138 of Negotiable Instruments Act. The learned advocate for the applicant submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the applicant is set aside, the proceedings in respect of the applicant would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No. 550 of 2005, the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the applicant prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer revision before the concerned Sessions Court. The learned advocate for the applicant states that the necessary revision would be preferred within a period of four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks from today.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Applications are disposed of.

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